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CHAPTER 851
BOARD OF NURSING

FILING CAPTION: Revision of Div 47 to update language to align with client needs.

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RULES:
851-047-0000, 851-047-0020, 851-047-0030, 851-047-0040, 851-047-0045, 851-047-0050, 851-047-0055, 851-047-0060, 851-047-0065, 851-047-0070

AMEND: 851-047-0000

RULE TITLE: Rule Summary, Statement of Purpose and Intent

NOTICE FILED DATE: 04/27/2023

RULE SUMMARY: Update language, update statement of purpose.

RULE TEXT:
(1) These rules identify registered nurse (RN) delegation process responsibilities. Pursuant to OAR chapter 851 division 006, delegation process means the process utilized by an RN to authorize an unregulated assistive person (UAP) to perform a nursing procedure for a client, the outcome of which the RN retains accountability for;
(2) The RN may only apply these rules when the client's environment of care is a community-based setting. Pursuant to OAR chapter 851 division 006, community-based setting means a setting that does not exist primarily for the purposes of providing nursing or medical services, but where nursing service could be required intermittently. These settings include private homes, foster homes, assisted living facilities, schools and 24-hour residential care facilities.

STATUTORY/OTHER AUTHORITY: ORS 678.150

STATUTES/OTHER IMPLEMENTED: ORS 678.150

REPEAL: 851-047-0020

RULE TITLE: Teaching Administration of Noninjectable Medications and Periodic Inspection

NOTICE FILED DATE: 04/27/2023

RULE SUMMARY: Repealed section. Rules dispersed to more appropriate sections of the Division.

RULE TEXT:

These rules for teaching administration of noninjectable medications apply only when a Registered Nurse is designated by the facility or client to provide training and consultation. Unlicensed persons administer noninjectable medications in community-based care settings. Many of these settings are regulated and the unlicensed persons who function in them are regulated from the standpoint of training requirements for them to be caregivers. Training to administer noninjectable medications may or may not be part of the caregiver's orientation program and the training is not required to be done by a Registered Nurse. Community-based care settings may or may not require nurse consultation or the involvement of a licensed nurse. In these settings, the nurse is encouraged to review the facility license requirements that reference the duties of a licensed nurse.

(1) A physician may provide the initial direction for administration of noninjectable medications.

(2) A Registered Nurse, or Licensed Practical Nurse at the direction of a Registered Nurse, may provide the initial direction for administration of noninjectable medications. When a Registered Nurse provides initial direction for the administration of noninjectable medications, the Registered Nurse must ensure that procedural guidance for administration of noninjectable medications is available to caregivers who administer medications. Initial direction shall include the following:

(a) The proper methods for administration of noninjectable medications;

(b) The reasons for the medications;

(c) The potential side-effects of the medications;

(d) Observation of the client's response;

(e) Expected actions if side-effects are observed;

(f) Documentation of the administration of the medications; and

(g) Verification of the physician's or nurse practitioner's order and accurately transcribing the order onto the medication administration record.

(3) Administration of noninjectable medication may or may not be periodically inspected, at the discretion of the Registered Nurse, and must be in accordance with the regulations for the setting in which the medications are administered. Individual clients within the setting may require more frequent review as determined by the judgment of the Registered Nurse. Factors to consider in determining more frequent review include:

(a) The client's condition and medical diagnoses;

(b) The number of medications prescribed and their potential for interaction;

(c) The type and amount of medication administered;

(d) The potential side-effects of the medications; and

(e) The client's history of medication side-effects.

(4) Assisting with the administration of medications does not include administration of noninjectable medications and is not subject to the requirements of OAR 851-047-0020.

(5) Administration of noninjectable p.r.n. medications and treatments may be taught to unlicensed caregivers by a Registered Nurse or a Licensed Practical Nurse at the direction of a Registered Nurse and in accordance with the regulations of the setting in which medications are administered, provided:

(a) Initial direction for administration of noninjectable medications as described in OAR 851-047-0020(2) is provided for the p.r.n. medications;

(b) The Registered Nurse writes parameters to clarify the physician's or nurse practitioner's p.r.n. order;

(c) The Registered Nurse or Licensed Practical Nurse leaves written parameters for the unlicensed caregiver(s) who administer medications; and

(d) The Registered Nurse or Licensed Practical Nurse leaves information for the caregivers who administer medications about the medications/treatments to be administered, including the purpose of the medications/treatments, their side effects and instructions for action if side effects are observed.
(6) The Registered Nurse and Licensed Practical Nurse have the responsibility to report unsafe practices that come to their attention related to administration of noninjectable medications to the proper person or agency even though the nurse may not have the primary responsibility for review of medication administration practices or supervision of the caregivers who administer noninjectable medications.

STATUTORY/OTHER AUTHORITY: ORS 678.150

STATUTES/OTHER IMPLEMENTED: ORS 678.150

AMEND: 851-047-0030

RULE TITLE: Delegation Process General Provisions

NOTICE FILED DATE: 04/27/2023

RULE SUMMARY: Renamed and revised to clarify language associated with delegation

RULE TEXT:

(1) Delegation process must be carried out in accordance with these rules;

(2) The decision to authorize a UAP to perform a client's nursing procedure remains with the RN.

(3) The RN who is not prepared to accept accountability for the outcome of a nursing procedure performed by a UAP must decline to delegate.;

(4) The RN is responsible for ensuring that the policies of the setting, or the policies supporting the RN's practice role, support RN delegation process pursuant to these rules;

(5) Only an RN who is an employee of a licensed home health agency, a licensed home infusion agency, or a licensed hospice agency may authorize a UAP to perform intravenous (IV) medication administration that is ordered to treat a client's chronic condition or infection;

(6) An RN who is not employed with a licensed home health agency, a licensed home infusion agency, or a licensed hospice agency may only delegate to a UAP the performance of a non-intravenous nursing procedure ordered for the treatment of a client's chronic condition;

(7) The RN must document all delegation process decisions, actions and outcomes pursuant to OAR 851-045;

(8) The registered nursing practice components of assessment, identification of actual or potential risk, outcome identification, planning and evaluation must not be delegated to a UAP;

(9) The RN's authorization of a UAP to perform a nursing procedure for a client ends when the RN ends their therapeutic relationship with the client.

STATUTORY/OTHER AUTHORITY: ORS 678.150

STATUTES/OTHER IMPLEMENTED: ORS 678.150

REPEAL: 851-047-0040

RULE TITLE: Teaching the Performance of Tasks for an Anticipated Emergency

NOTICE FILED DATE: 04/27/2023

RULE SUMMARY: Repealed as redundant

RULE TEXT:

The Registered Nurse may teach tasks to unlicensed persons which prepare the persons to deal with an anticipated emergency under the following conditions:

(1) The Registered Nurse assesses the probability that the unlicensed persons will encounter an emergency situation. Teaching for an anticipated emergency should be limited to those who are likely to encounter such an emergency situation.

(2) The Registered Nurse teaches the emergency procedure.

(3) The Registered Nurse leaves detailed step-by-step instructions how to respond to the anticipated emergency.

(4) Preparation for an anticipation of an emergency includes the administration of injectable medications by the intramuscular route as provided in ORS 433.800–433.830, Programs to Treat Allergens and Hypoglycemia.

(5) The Registered Nurse periodically evaluates the unlicensed persons' competence regarding the anticipated emergency situation.

(6) The responsibility, accountability and authority to teach for an anticipated emergency remains with the Registered Nurse.

STATUTORY/OTHER AUTHORITY: ORS 678.150

STATUTES/OTHER IMPLEMENTED: ORS 678.150

ADOPT: 851-047-0045

RULE TITLE: Delegation Process - RN Authorization of an Unregulated Assistive Person's Performance of a Nursing Procedure

NOTICE FILED DATE: 04/27/2023

RULE SUMMARY: Adopt as the process required of RNs in the act of delegating to UAPs

RULE TEXT:

(1) The RN may proceed with delegation process only when the RN determines, based on the analysis of evidence and data, that the client's situation meets all the following outcome criteria:

(a) The client's response to the condition for which the nursing procedure is ordered is stable and predictable;

(b) The client does not require assessment during performance of the procedure;

(c) The performance of the nursing procedure does not require interpretation or independent decision-making;

(d) The results of performing the nursing procedure are reasonably predictable;

(e) The selected client and circumstances of the delegation are such that the consequences of performing the nursing procedure are not life- threatening and delegation of the procedure's performance to the UAP poses minimal risk to the client;

(f) The client's environment of care supports the safe performance of the nursing procedure for the client by the UAP;

(g) The nursing procedure will be performed by the UAP at a frequency that would allow for the UAP's continued safe performance;

(h) The UAP possesses the skills necessary for learning and safely performing the nursing procedure;

(i) The UAP communicates that they are willing and able to perform the nursing procedure for the client;

(j) The RN has the appropriate resources necessary to fulfill nursing practice and delegation process responsibilities with the client and the UAP including:

(A) Availability to provide ongoing assessment of the client at the frequency deemed necessary by the RN to determine the ongoing stability and predictability of the client's responses to their condition; and

(B) Availability to provide ongoing competency validation of the authorized UAP's performance of the nursing procedure for the client.

(2) The RN must educate the UAP on, and evaluate their learned knowledge of, content that includes at a minimum:

(a) Information about the nursing procedure and why it is necessary in the management or treatment of the client's condition; and

(b) Written step-by-step evidence-based instructions on the performance of the nursing procedure for the client that are respectful of the client's needs, choices and dignity, written in a manner that is understood by the UAP, and that at a minimum identify:

(A) How to perform the nursing procedure for the client;

(B) Infection control practices when performing the nursing procedure;

(C) Client risks associated with the nursing procedure's performance;

(D) Observation of the client including desired effects, side effects, potential adverse reactions and emergencies related to performance of the nursing procedure on the client;

(E) Actions to take in response to observations; and

(F) Documentation requirements when performing the nursing procedure.

(3) After completing the education and evaluation processes in section number (2), the RN must provide a one-on-one education and evaluation experience with the UAP and the client.

(a) During the experience, the RN must:

(A) Address questions the UAP and client may have;

(B) Amend the written instructions as deemed appropriate by the RN; and

(C) Validate the UAP's adherence to the written instructions by direct observation of the UAP in their performance of the nursing procedure on the client.

(b) The RN who validates the UAP's accurate performance of the nursing procedure on the client pursuant to subsection (a) may initially authorize the UAP to perform the nursing procedure for the client for a period not to exceed 60 days. The authorization period chosen for the UAP by the RN must be based on the RN's evaluation of factors that include but are not limited to:
(A) The nursing procedure delegated;
(B) Whether the RN has authorized the same UAP to perform the same nursing procedure previously;
(C) The length of time the RN has worked with the UAP as a health care team member;
(D) The frequency of client assessment deemed necessary by the RN to determine the ongoing stability and predictability of the client's responses to their condition; and
(E) The client's responses to other actual or potential health problems that may impact the client's responses to the condition for which the nursing procedure is ordered.
(c) The RN must:
(A) Document the length of the UAP's authorization period and data supporting the decision;
(B) Leave a copy of the written instructions for the UAP to access in the client's environment of care;
(C) Instruct the UAP to utilize the instructions each time they perform the nursing procedure for the client;
(D) Instruct the UAP that their time-limited authorization to perform the nursing procedure for the client is specific to this one client only, is not transferable to any other client, and does not allow them to teach anyone else how to perform the nursing procedure;
(E) Document a recommendation that identifies how the client might continue to receive their ordered nursing procedure in the event the RN is no longer a member of the client's health care team and the procedure remains ordered for the client. The RN must ensure the recommendation is:
(i) Appropriate to the context of care;
(ii) Based on available resources;
(iii) Kept current;
(iv) Made accessible in the client's environment of care; and
(v) Communicated with other health care team members who need to know.
(F) Update the plan of care to identify that performance of the client's nursing procedure has been delegated to a UAP; and
(G) Continue to engage in nursing practice with the client pursuant to OAR 851-045.

STATUTORY/OTHER AUTHORITY: ORS 678.150

STATUTES/OTHER IMPLEMENTED: ORS 678.150

ADOPT: 851-047-0050

RULE TITLE: Delegation Process - Ongoing RN Evaluation of the Safety of the Delegation

NOTICE FILED DATE: 04/27/2023

RULE SUMMARY: Adopt as the requirement for ongoing RN evaluation

RULE TEXT:

(1) The RN must complete an evaluation of the continued safety of the delegation prior to the expiration of the UAP's authorized period for performance of the nursing procedure for the client.

(2) The RN's evaluation must include:

(a) Assessment of the client in their environment of care; and

(b) Validation of the UAP's adherence to the written instructions in their performance of the nursing procedure for the client that at a minimum includes:

(A) Evaluation of the UAP's documentation of performance of the nursing procedure;

(B) Address questions or concerns the UAP and client may have; and

(C) Direct observation of the UAP in their performance of the nursing procedure on the client.

(3) RN clinical judgment and actions:

(a) The RN who concludes that the client's response to their condition is unstable or unpredictable, or who determines that the UAP does not adhere to the written instructions, must rescind the UAP's authorization to perform the nursing procedure for the client.

(A) The RN must document the date and time the UAP's authorization has been rescinded and reason for rescinding;

(B) The action must be communicated to the UAP and to other health care team members who need to know;

(C) The RN must advocate for the client to receive appropriate care; and

(D) The RN who fails to rescind pursuant subsection (a) may be found to demonstrate conduct derogatory to the practice of nursing.

(b) The RN who concludes that the client's response to their condition remains stable and predictable, and who validates the UAP's adherence to the written instructions in their performance of the nursing procedure on the client, may authorize the UAP's continued performance of the nursing procedure for the client for a period not to exceed 180 days.

(A) The RN who chooses to authorize the UAP's continued performance of the nursing procedure for the client must:

(i) Document the length of the UAP's authorization period and data supporting the decision pursuant to criteria identified in 851-047-0045(3)(b)(A) through (E);

(ii) Communicate the duration of the UAP's authorization period with other health care team members who need to know;

(iii) Ensure a copy of the written instructions are accessible to the UAP in the client's environment of care;

(iv) Instruct the UAP to utilize the instructions each time they perform the nursing procedure for the client;

(v) Instruct the UAP that their time-limited authorization to perform the nursing procedure for the client is specific to this one client only, is not transferable to any other client, and does not allow them to teach anyone else how to perform the nursing procedure;

(vi) Ensure the RN recommendation pursuant to 851-047-0045(3)(c)(E)(i) through (v) continues to meet the standards and update as deemed necessary by the RN.

(B) Thereafter, and prior to the end of each subsequent RN-authorized period for the UAP's continued performance of the nursing procedure for the client, the RN must complete an evaluation of the continued safety of the delegation pursuant to 851-047-0050(1) through (3).

(4) The RN may assign validation of the UAP's adherence to the written instructions in their performance of the nursing procedure for the client to another RN who accepts the assignment. The RN who makes the assignment must:

(a) Assign only to the RN who possesses the competencies necessary to perform the responsibilities of the assignment;

(b) Generate a record of the assignment that identifies at a minimum:

(A) The reason for separation of client assessment and UAP competency validation responsibilities;

(B) Responsibilities of the assignment;
(C) The name of the RN to whom the assignment is made and accepted;
(D) How the clinical supervision of the RN will occur; and
(E) How the effectiveness of the assignment will be evaluated.
(c) Ensure that the written instructions for performance of the nursing procedure are consistent with any provisions of the assignment and clearly identify whom the UAP is to contact when issues arise; and
(d) Communicate to the client, the UAP and other health care team members the name of the RN accepting the assignment and their role within the health care team.

STATUTORY/OTHER AUTHORITY: ORS 678.150

STATUTES/OTHER IMPLEMENTED: ORS 678.150

ADOPT: 851-047-0055

RULE TITLE: Delegation Process - Limitations on the RN's Delegation of the Administration of Medication by the Intravenous Route

NOTICE FILED DATE: 04/27/2023

RULE SUMMARY: Adopt as rules regarding the delegation of IV administration of medication

RULE TEXT:

(1) The RN who is an employee of a licensed home health agency, a licensed home infusion agency or a licensed hospice agency may authorize a UAP to administer medication by the intravenous (IV) route provided the following conditions are met:

(a) The RN adheres to the requirement of these rules;

(b) Nursing procedures for consideration for delegation are limited to the administration of a pre-measured IV flushing solution, flushing an IV line with a routine pre-measured flushing solution, changing a pre-measured bag of IV fluid, adding a pre-measured IV medication to an existing IV line, and the administration of a bolus of IV medication by using a preprogrammed delivery device;

(c) Initiating or discontinuing an IV line is prohibited from delegation to a UAP;

(d) All pre-measured flushing solutions, bags of fluid and doses of medication must be reviewed by the dispensing pharmacy; and

(e) The RN who authorizes a UAP to administer a medication by the IV route must be accessible to provide 24-hour consultation to the UAP and client including on-site intervention as needed by the UAP and the client. These additional responsibilities must be provided by the RN who delegates or by an RN designee who is employed by the same licensed home health agency, licensed home infusion agency, or licensed hospice agency as the RN who delegated the nursing procedure.

(2) The RN may only delegate the administration of medications by the IV route as described in these rules.

STATUTORY/OTHER AUTHORITY: ORS 678.150

STATUTES/OTHER IMPLEMENTED: ORS 678.150

ADOPT: 851-047-0060

RULE TITLE: Delegation Process - Rescinding a UAP’s Authorization to Perform a Nursing Procedure on a Client

NOTICE FILED DATE: 04/27/2023

RULE SUMMARY: Adopt as rule the process for rescinding a UAP's authorization to perform a nursing procedure on a client.

RULE TEXT:
(1) The RN is responsible for rescinding their authorization of the UAP’s performance of a nursing procedure for their client in any of the following situations:
(a) The client’s response to their condition for which the nursing procedure is ordered becomes unstable or unpredictable;
(b) The UAP demonstrates the inability to adhere to the written instructions for performance of the nursing procedure for the client;
(c) The nursing procedure cannot be performed by the UAP at a frequency that allows for its continued safe performance;
(d) The nursing procedure is discontinued;
(e) The UAP no longer works with the client;
(f) The client’s environment of care is not safe for performance of the nursing procedure by a UAP;
(g) The RN is no longer able to provide ongoing evaluation of the safety of the delegation; or
(h) The RN ends their therapeutic relationship with the client.
(2) The RN who rescinds a UAP’s authorization to perform a nursing procedure for their client must:
(a) Document the date, time and reason the UAP is no longer authorized to perform the nursing procedure for the client; and
(b) Inform the UAP and other health care team members that the UAP is no longer authorized to perform the nursing procedure for the client.

STATUTORY/OTHER AUTHORITY: ORS 678.150

STATUTES/OTHER IMPLEMENTED: ORS 678.150

ADOPT: 851-047-0065

RULE TITLE: Rescinding the delegation for a client and UAP

NOTICE FILED DATE: 04/27/2023

RULE SUMMARY: Adopt as rule regarding handoff of delegation authority from one RN to another.

RULE TEXT:

(1) For the delegation of the procedure performed for the client by a UAP (s) to no longer be considered under the accountability of the RN's license, the delegation must be rescinded. The act of transferring the delegation to another RN still requires the rescinding RN to formally end their nursing relationship with the Client and the UAP(s). A synchronous handoff must be done between the RN rescinding the delegation and the RN accepting the delegation, except in the following circumstances:

(a) The current RN has resigned their position with their employer and there is no other RN within the organization qualified to accept the delegation, this would include regional and other RNs within the organizational hierarchy.

(b) School nurses who have delegations at multiple school sites and the care for the K-12 child is well established and the UAP performing the procedure has shown continued competency in performing the procedure.

(2) If there is no accepting RN, then the following rules apply:

(a) An RN may choose to authorize the UAP's continued performance of the procedure for the client. The RN must document that there is a rescinding assessment that the UAP (s) have successfully performed the procedures without issue and there is no indication that they cannot continue to do so, and, to the best knowledge, skill, ability and competency of the RN, the client has no indication that there would be a change in condition which would cause the procedure not to continue.

(b) The RN must document that the client's care facility, RNs employer, or client family have been informed that the RN will no longer be able to provide the delegation oversight and that currently there is no other RN to whom the delegation can be transferred.

(c) The RN must leave written instructions for actions the facility or family need to take if the client's condition becomes unexpectedly unstable or if no UAPs are available to perform the procedure.

(d) The continued ability for the client to receive the delegated services until an RN can accept the delegation oversight rests with the facility, family, or RN employer. It is expected that the RN, prior to leaving the assignment, will assist in planning for continuity of care but is not accountable under their license to maintain the delegation until another RN is found.

(e) Rescinding the delegation under these rules, ends the RNs relationship with the client and UAP.

(f) Failing to follow the above criteria could be considered patient abandonment.

STATUTORY/OTHER AUTHORITY: ORS 678.150

STATUTES/OTHER IMPLEMENTED: ORS 678.150

ADOPT: 851-047-0070

RULE TITLE: Requirements of a Synchronous Hand Off by the Accepting RN

NOTICE FILED DATE: 04/27/2023

RULE SUMMARY: Adopt as rule regarding the procedure for a synchronous handoff.

RULE TEXT:

(1) The RN may consider the acceptance of a hand off of nursing services provision and delegation process responsibilities for a client and a UAP from another RN under the following conditions:

(a) The responsibilities of the hand off are within the RN's individual scope of practice;

(b) The hand off occurs synchronously from the RN who currently provides nursing services for the client and has currently authorized the UAP to perform the client's procedure;

(c) The RN synchronously meets, and generates a record of meeting, with the RN making the hand off to receive a transfer of knowledge about the client and their situation.

(d) The RN determines, based on the analysis of evidence and data, that the client's situation meets all the following outcomes:

(A) The client's response to the condition for which the procedure is ordered is stable and predictable;

(B) The client does not require assessment related to the procedure's performance;

(C) The performance of the procedure does not require interpretation or independent decision-making;

(D) The results of performing the procedure are reasonably predictable;

(E) The selected client and circumstances of the delegation are such that the consequences of performing the procedure are not life- threatening, and delegation of the procedure's performance to the UAP poses minimal risk to the client;

(F) The client's environment of care supports the safe performance of the procedure by the UAP;

(G) The procedure will be performed by the UAP at a frequency that would allow for the procedure's continued safe performance; and

(H) The UAP's documentation of their performance of the procedure demonstrates adherence to the written instructions.

(I) The RN has the appropriate resources necessary to fulfill nursing practice and delegation process responsibilities with the client and the UAP including:

(i) Availability to provide ongoing assessment of the client at the frequency deemed necessary by the RN to determine the ongoing stability and predictability of the client's responses to their condition; and

(ii) Availability to provide ongoing competency validation of the authorized UAP's performance of the procedure for the client.

(e) The teaching content on the client's condition and performance of the procedure meets the requirements of these rules;

(f) The written instructions for the UAP's performance of the procedure for the client meet the requirements of these rules;

(g) The RN provides a one-on-one experience with the UAP and the client that includes:

(A) Address questions the UAP and client may have;

(B) Amendment of the written instructions as deemed appropriate by the RN; and

(C) Direct observation of the UAP in their performance of the procedure on the client.

(2) The RN who adheres to section number (1) and who validates the UAP's accurate performance of the procedure on the client, holds the authority to accept the hand off and authorize the UAP to perform the procedure for the client under their delegated authority;

(3) The RN who makes the decision to accept the hand off must document:

(a) The date and time the hand off is accepted and nursing services provided to the client become their responsibility;

(b) The date and time the UAP is authorized under their delegated authority to perform the procedure for the client;

(c) The length of the UAP's authorization period for performing the procedure for the client that must not exceed 60

days based on criteria at 851-047-0045(3)(b)(A) through (E); and
(d) Pursuant to 851-047-0045 (3)(c)(E), a recommendation that identifies how the client might continue to receive their ordered procedure in the event the RN is no longer a member of the client's health care team and the procedure remains ordered for the client.
(4) Prior to the expiration of the UAP's authorized period for performance of the procedure for the client, the RN must complete an evaluation of the safety of the delegation pursuant to OAR 851-047-0050(1) through (3).

STATUTORY/OTHER AUTHORITY: ORS 678.150

STATUTES/OTHER IMPLEMENTED: ORS 678.150